

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Tri-Villa Trust, Ann Marie Lewis, Trustee,

Complainant,

vs.

Southern California Edison Company (U388-E),

Defendant.

(ECP)

Case 13-08-020

(Filed August 22, 2013)

Marie Lewis, Trustee for Tri-Villa Trust,

And Leonard Lewis, Complainants.

Vanessa Kirkwood, for Southern California

Edison Company, Defendant.

DECISION DENYING THE COMPLAINT**1. Summary**

This decision denies the request of Tri-Villa Trust, Ann Marie Lewis, Trustee (Complainant), for a refund from Southern California Edison Company (SCE) for electricity overbilling from January through December 2012. This proceeding is closed.

2. Positions of the Parties

Tri-Villa Trust, Ann Marie Lewis, Trustee (Complainant or Tri-Villa), seeks a refund of \$9,800 which represents the dollar amount difference between the kilowatt-hours (kWhs) used in 2011 and 2012. Complainant contends that the

electric usage in the house has remained the same, yet the number of kWhs registered in 2012 increased by 29,029 over the 2011 usage. Tri-Villa asserts that this can only be possible due to a meter malfunction.

Complainant hired an electrician to perform an energy audit of the house. According to Complainant, the electrician's audit states that if all the devices in the house were used at constant full power it would be impossible to use the amount of kilowatt hours reflected in the summer/fall 2012 bills.

Southern California Edison Company (SCE) contends that after Tri-Villa contacted it about the November 2012 monthly statement, it responded by testing the meter on January 31, 2013 with the Complainant present, and again May 10, 2013. SCE also performed a load check on May 10, 2013. SCE's field representative who performed the load check noted there are four air conditioning units, one refrigerator and a pool pump that was running approximately 12 to 14 hours a day. A second field visit was conducted on May 16, 2013 to test the pool pump which at that time was shown to be running 22 hours a day.

SCE states that its meter test results show the meter to be working within the Commission approved tolerances as set forth in SCE's Tariff Rule 17.C.1¹ and its load check confirmed that Tri-Villa had enough connected load to consume the usage registered on the meter. On that basis, SCE states that the Commission should deny Complainant's request for a refund.

¹ SCE Tariff Rule 17 C.1., Adjustment of Bills for Meter Error, provides that if a meter is found to be registering more than 2% fast, SCE will refund to the customer the amount of the overcharge based on corrected meter readings or SCE's estimate of the energy usage either for the known period of error or, if the period of error is not known, for the period during which the meter was in use.

3. Discussion

The residence in question is located at 1350 Ladera Circle, Palm Springs, California. The home has been dubbed Graceland West because it is the only house known to have been purchased by Elvis and Priscilla Presley in California and was owned by Elvis until the time of his death in 1977. The house, something of a tourist attraction, was open for tours until February 2014 when it was placed on the market.

Tri-Villa states that the meter must have malfunctioned because nothing in the day-to-day electric usage changed from 2011 to 2012 that would account for such an increase. However, Complainant is only present on the property for approximately three weeks each year, living in Boston for the majority of the year. The property is maintained by a caretaker who lives on the premises full time. Tri-Villa's statement that nothing changed during the time in question is unsubstantiated because Complainant was not actually on the premises during the time in question to support this statement. Although Complainant is on SCE's Level Payment Plan² and with the Smart Meter could have monitored electricity usage at the Ladera Circle residence online, it did not. Tri-Villa only became aware of the large increase when it was billed for the difference between the total amount of the Level Pay Plan and the cost of the electricity actually consumed for the year.

Both parties conducted load checks and arrived at conflicting conclusions. However, Complainant was present for the meter check on January 31, 2013 and

² SCE's Level Pay Plan estimates the annual usage based on the previous year's usage and divides the cost of the electric usage into 12 equal payments. Any over- or under-collections are trued-up at the end of the 12-month period.

does not dispute the conclusion that the meter check readings fell within the allowed tolerances.

We find no evidence of meter malfunction and Complainant's absence from the residence for most of the year diminishes the reliability of its assurances that usage did not change from year to year. For these reasons, the request for a refund in the amount of \$9,800 is denied.

At the hearing held in Palm Springs on January 7, 2014, Tri-Villa stated that during one telephone conversation with SCE's customer service representative regarding the bill, it was suggested that a new variable speed pool pump be installed as a cost-saving measure. SCE objected to this statement, arguing that its customer service representatives would never make such a recommendation.

Complainant asserts that at the May 16, 2013 pool pump test, the SCE field technicians who conducted the test, and who were also present at the hearing, stated that the variable speed pump was a waste of money.³ The variable speed pump is designed to take advantage of time-of-use rates to reduce energy bills, but time-of-use rates will not be available in Palm Springs until 2015.

We find Tri-Villa's testimony that the variable speed pool pump was purchased on the recommendation of SCE's customer service representative credible. Complainant was seeking to reduce electricity bills and we are convinced that it would not have spent additional money on a new pool pump without some assurance that it would reduce the monthly utility bills.

We are greatly concerned that an SCE's representative was not more knowledgeable about the rate design in its service areas and therefore provided

³ After the hearing, Tri-Villa produced a \$1,760 invoice dated March 16, 2013 for the purchase and installation of a variable speed pool pump.

incorrect information to the Complainant. Contrary to SCE's fifth affirmative defense in its response to the complaint, Tri-Villa did attempt to mitigate further injury by installing a new pool pump, and did so at the suggestion of SCE's employee. This caused the Complainant to incur additional, unnecessary costs. However, the Commission does not have jurisdiction to award damages and therefore cannot order the refund of the variable speed pump purchase and installation costs. The appropriate venue for the Complainant to seek reimbursement for these costs is small claims court.

4. Assignment of Proceeding

Catherine J.K. Sandoval is the assigned Commissioner and Linda A. Rochester is the assigned Administrative Law Judge in this proceeding.

O R D E R**IT IS ORDERED** that:

1. The Complaint of Tri-Villa Trust, Ann Marie Lewis, Trustee, requesting a refund is denied. .
2. Case 13-08-020 is closed.

This order is effective today.

Dated _____, at San Francisco, California.